

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)
)
)

SCOTT COLEMAN BICKMAN, M.D.)

File No. 05-2001-126754

Physician's and Surgeon's)

Certificate No. G 76532)

Respondent.)
_____)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 18, 2006.

IT IS SO ORDERED August 18, 2006.

MEDICAL BOARD OF CALIFORNIA

By: Cesar A. Aristeiguieta, M.D.
Cesar A. Aristeiguieta, M.D., Chair
Panel A
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 E. A. JONES III, State Bar No. 71375
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2543
5 Facsimile: (213) 897-9395

6 Attorneys for Complainant

7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 SCOTT COLEMAN BICKMAN, M.D.
14 10600 Wilshire Blvd., Suite 306
Los Angeles, CA 90024

15 Physician's and Surgeon's Certificate No. G
76532

16 Respondent.

Case No. 05-2001-126754

OAH No. L2004040528

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the Division of Medical Quality, Medical Board of California
20 of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated
21 Settlement and Disciplinary Order which will be submitted to the Division for approval and adoption
22 as the final disposition of the Accusation

23 PARTIES

24 1. David T. Thornton (Complainant) is the Executive Director of the Medical
25 Board of California. He brought this action solely in his official capacity and is represented in this
26 matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy
27 Attorney General.

28 2. Respondent Scott Coleman Bickman, M.D. (Respondent) is represented in

1 this proceeding by attorney Peter Osinoff, whose address is Bonne, Bridges, Mueller, O'Keefe &
2 Nichols, 3699 Wilshire Blvd., 10th Floor, Los Angeles, CA 90010.

3 3. On or about May 17, 1993, the Medical Board of California issued Physician's
4 and Surgeon's Certificate No. G 76532 to Scott Coleman Bickman, M.D. (Respondent). The
5 Certificate was in full force and effect at all times relevant to the charges brought in Accusation No.
6 05-2001-126754 and will expire on April 30, 2007, unless renewed.

7 JURISDICTION

8 4. Accusation No. 05-2001-126754 was filed before the Division of Medical
9 Quality (Division) for the Medical Board of California; Department of Consumer Affairs, and is
10 currently pending against Respondent. The Accusation and all other statutorily required documents
11 were properly served on Respondent on March 23, 2004. Respondent timely filed his Notice of
12 Defense contesting the Accusation. A copy of Accusation No. 05-2001-126754 is attached as exhibit
13 A and incorporated herein by reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, fully discussed with counsel, and understands
16 the charges and allegations in Accusation No. 05-2001-126754. Respondent has also carefully read,
17 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
18 Disciplinary Order.

19 6. Respondent is fully aware of his legal rights in this matter, including the right
20 to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel
21 at his own expense; the right to confront and cross-examine the witnesses against him; the right to
22 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
23 the attendance of witnesses and the production of documents; the right to reconsideration and court
24 review of an adverse decision; and all other rights accorded by the California Administrative
25 Procedure Act and other applicable laws.

26 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each
27 and every right set forth above.

28 ///

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in
3 Accusation No. 05-2001-126754, if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician's and Surgeon's Certificate, and that Respondent hereby gives up his right to
5 contest all of the charges in the Accusation.

6 9. For the purpose of resolving the Accusation without the expense and
7 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish
8 a factual basis for the charge in the Accusation that Respondent failed to maintain adequate and
9 accurate records.

10 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
11 discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the
12 Disciplinary Order below.

13 CIRCUMSTANCES IN MITIGATION

14 11. Respondent Scott Coleman Bickman, M.D. has never been the subject of any
15 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

16 RESERVATION

17 12. The admissions made by Respondent herein are only for the purposes of this
18 proceeding, or any other proceedings in which the Division of Medical Quality, Medical Board of
19 California, or other professional licensing agency is involved, and shall not be admissible in any
20 other criminal or civil proceeding.

21 CONTINGENCY

22 13. This stipulation shall be subject to approval by the Division of Medical
23 Quality. Respondent understands and agrees that counsel for Complainant and the staff of the
24 Medical Board of California may communicate directly with the Division regarding this stipulation
25 and settlement, without notice to or participation by Respondent or his counsel. By signing the
26 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to
27 rescind the stipulation prior to the time the Division considers and acts upon it. If the Division fails
28 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order

1 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
2 between the parties, and the Division shall not be disqualified from further action by having
3 considered this matter.

4 14. The parties understand and agree that facsimile copies of this Stipulated
5 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force
6 and effect as the originals.

7 15. In consideration of the foregoing admissions and stipulations, the parties agree
8 that the Division may, without further notice or formal proceeding, issue and enter the following
9 Disciplinary Order:

10 **DISCIPLINARY ORDER**

11 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 76532
12 issued to Respondent Scott Coleman Bickman, M.D. is revoked. However, the revocation is stayed
13 and Respondent is placed on probation for thirty-five (35) months on the following terms and
14 conditions.

15 1. **EDUCATION COURSE** Within 60 calendar days of the effective date of this
16 Decision, and on an annual basis thereafter, respondent shall submit to the Division or its designee
17 for its prior approval educational program(s) or course(s) which shall not be less than 24 hours per
18 year, for each year of probation, including the final eleven (11) months of probation. The
19 educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or
20 knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at
21 respondent's expense and shall be in addition to the Continuing Medical Education (CME)
22 requirements for renewal of licensure. Following the completion of each course, the Division or its
23 designee may administer an examination to test respondent's knowledge of the course. Respondent
24 shall provide proof of attendance for 49 hours of continuing medical education per year, of which
25 24 hours were in satisfaction of this condition.

26 2. **MEDICAL RECORD KEEPING COURSE** Within 60 calendar days of the
27 effective date of this decision, respondent shall enroll in a course in medical record keeping, at
28 respondent's expense, approved in advance by the Division or its designee. Failure to successfully

1 complete the course during the first 6 months of probation is a violation of probation.

2 A medical record keeping course taken after the acts that gave rise to the charges in
3 the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
4 Division or its designee, be accepted towards the fulfillment of this condition if the course would
5 have been approved by the Division or its designee had the course been taken after the effective date
6 of this Decision.

7 Respondent shall submit a certification of successful completion to the Division or
8 its designee not later than 15 calendar days after successfully completing the course, or not later than
9 15 calendar days after the effective date of the Decision, whichever is later.

10 3. CLINICAL TRAINING PROGRAM Within 60 calendar days of the
11 effective date of this Decision, respondent shall enroll in a clinical training or educational program
12 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the
13 University of California - San Diego School of Medicine ("Program").

14 The Program shall consist of a Comprehensive Assessment program comprised of
15 a two-day assessment of respondent's physical and mental health; basic clinical and communication
16 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
17 respondent's specialty or sub-specialty, and at minimum, a 40 hour program of clinical education
18 in the area of practice in which respondent was alleged to be deficient and which takes into account
19 data obtained from the assessment, Decision(s), Accusation(s), and any other information that the
20 Division or its designee deems relevant. Respondent shall pay all expenses associated with the
21 clinical training program.

22 Based on respondent's performance and test results in the assessment and clinical
23 education, the Program will advise the Division or its designee of its recommendation(s) for the
24 scope and length of any additional educational or clinical training, treatment for any medical
25 condition, treatment for any psychological condition, or anything else affecting respondent's practice
26 of medicine. Respondent shall comply with Program recommendations.

27 At the completion of any additional educational or clinical training, respondent shall
28 submit to and pass an examination. The Program's determination whether or not respondent passed

1 the examination or successfully completed the Program shall be binding.

2 Respondent shall complete the Program not later than six months after respondent's
3 initial enrollment unless the Division or its designee agrees in writing to a later time for completion.

4 Failure to participate in and complete successfully all phases of the clinical training
5 program outlined above is a violation of probation.

6 If respondent fails to successfully complete the clinical training program within the
7 designated time period, respondent shall cease the practice of medicine within 72 hours after being
8 notified by the Division or its designee that respondent failed to successfully complete the clinical
9 training program.

10 4. MONITORING - PRACTICE Within 30 calendar days of the effective date
11 of this Decision, respondent shall submit to the Division or its designee for prior approval as a
12 practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons
13 whose licenses are valid and in good standing, and who are preferably American Board of Medical
14 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
15 relationship with respondent, or other relationship that could reasonably be expected to compromise
16 the ability of the monitor to render fair and unbiased reports to the Division, including, but not
17 limited to, any form of bartering, shall be in respondent's field of practice, and must agree to serve
18 as respondent's monitor. Respondent shall pay all monitoring costs.

19 The Division or its designee shall provide the approved monitor with copies of the
20 Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt
21 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
22 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of
23 a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with
24 the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed
25 statement.

26 Within 60 calendar days of the effective date of this Decision, and continuing
27 throughout probation, respondent's practice shall be monitored by the approved monitor.
28 Respondent shall make all records available for immediate inspection and copying on the premises

1 by the monitor at all times during business hours, and shall retain the records for the entire term of
2 probation.

3 The monitor(s) shall submit a quarterly written report to the Division or its designee
4 which includes an evaluation of respondent's performance, indicating whether respondent's practices
5 are within the standards of practice of medicine, and whether respondent is practicing medicine
6 safely.

7 It shall be the sole responsibility of respondent to ensure that the monitor submits the
8 quarterly written reports to the Division or its designee within 10 calendar days after the end of the
9 preceding quarter.

10 If the monitor resigns or is no longer available, respondent shall, within 5 calendar
11 days of such resignation or unavailability, submit to the Division or its designee, for prior approval,
12 the name and qualifications of a replacement monitor who will be assuming that responsibility
13 within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60
14 days of the resignation or unavailability of the monitor, unless the Division or its designee agrees
15 to a later time for completion, respondent shall be suspended from the practice of medicine until a
16 replacement monitor is approved and prepared to assume immediate monitoring responsibility.
17 Respondent shall cease the practice of medicine within 3 calendar days after being so notified by the
18 Division or designee.

19 In lieu of a monitor, respondent may participate in a professional enhancement
20 program equivalent to the one offered by the Physician Assessment and Clinical Education Program
21 at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly
22 chart review, semi-annual practice assessment, and semi-annual review of professional growth and
23 education. Respondent shall participate in the professional enhancement program at respondent's
24 expense during the term of probation.

25 Failure to maintain all records, or to make all appropriate records available for
26 immediate inspection and copying on the premises, or to comply with this condition as outlined
27 above is a violation of probation.

28 5. NOTIFICATION Within thirty (30) days of the effective date of this

1 Decision, the respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief
2 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
3 extended to respondent, at any other facility where respondent engages in the practice of medicine,
4 including all physician and locum tenens registries or other similar agencies, and to the Chief
5 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
6 respondent. Respondent shall submit proof of compliance to the Division or its designee within 15
7 calendar days.

8 This condition shall apply to any change(s) in hospitals, other facilities or insurance
9 carrier.

10 6. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
11 respondent is prohibited from supervising physician assistants.

12 7. OBEY ALL LAWS Respondent shall obey all federal, state and local laws,
13 all rules governing the practice of medicine in California, and remain in full compliance with any
14 court ordered criminal probation, payments and other orders.

15 8. QUARTERLY DECLARATIONS Respondent shall submit quarterly
16 declarations under penalty of perjury on forms provided by the Division, stating whether there has
17 been compliance with all the conditions of probation. Respondent shall submit quarterly
18 declarations not later than 10 calendar days after the end of the preceding quarter.

19 9. PROBATION UNIT COMPLIANCE Respondent shall comply with the
20 Division's probation unit. Respondent shall, at all times, keep the Division informed of respondent's
21 business and residence addresses. Changes of such addresses shall be immediately communicated
22 in writing to the Division or its designee. Under no circumstances shall a post office box serve as
23 an address of record, except as allowed by Business and Professions Code section 2021(b).

24 Respondent shall not engage in the practice of medicine in respondent's place of
25 residence. Respondent shall maintain a current and renewed California physician's and surgeon's
26 license.

27 Respondent shall immediately inform the Division, or its designee, in writing, of
28 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more

1 than 30 calendar days.

2 10. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent shall
3 be available in person for interviews either at respondent's place of business or at the probation unit
4 office, with the Division or its designee, upon request at various intervals, and either with or without
5 prior notice throughout the term of probation.

6 11. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent
7 should leave the State of California to reside or to practice, respondent shall notify the Division or
8 its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
9 defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any
10 activities defined in Sections 2051 and 2052 of the Business and Professions Code.

11 All time spent in an intensive training program outside the State of California which
12 has been approved by the Division or its designee shall be considered as time spent in the practice
13 of medicine within the State. A Board-ordered suspension of practice shall not be considered as a
14 period of non-practice. Periods of temporary or permanent residence or practice outside California
15 will not apply to the reduction of the probationary term. Periods of temporary or permanent
16 residence or practice outside California will relieve respondent of the responsibility to comply with
17 the probationary terms and conditions with the exception of this condition and the following terms
18 and conditions of probation: Obey All Laws and Probation Unit Compliance.

19 Respondent's license shall be automatically cancelled if respondent's periods of
20 temporary or permanent residence or practice outside California total two years. However,
21 respondent's license shall not be cancelled as long as respondent is residing and practicing medicine
22 in another state of the United States and is on active probation with the medical licensing authority
23 of that state, in which case the two year period shall begin on the date probation is completed or
24 terminated in that state.

25 12. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

26 In the event respondent resides in the State of California and for any reason
27 respondent stops practicing medicine in California, respondent shall notify the Division or its
28 designee in writing within 30 calendar days prior to the dates of non-practice and return to practice.

1 Any period of non-practice within California, as defined in this condition, will not apply to the
2 reduction of the probationary term and does not relieve respondent of the responsibility to comply
3 with the terms and conditions of probation. Non-practice is defined as any period of time exceeding
4 30 calendar days in which respondent is not engaging in any activities defined in sections 2051 and
5 2052 of the Business and Professions Code.

6 All time spent in an intensive training program which has been approved by the
7 Division or its designee shall be considered time spent in the practice of medicine. For purposes of
8 this condition, non-practice due to a Board-ordered suspension or in compliance with any other
9 condition of probation, shall not be considered a period of non-practice.

10 Respondent's license shall be automatically cancelled if respondent resides in
11 California and for a total of two years, fails to engage in California in any of the activities described
12 in Business and Professions Code sections 2051 and 2052.

13 13. COMPLETION OF PROBATION Respondent shall comply with all
14 financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
15 completion of probation. Upon successful completion of probation, respondent's certificate shall be
16 fully restored.

17 14. VIOLATION OF PROBATION Failure to fully comply with any term or
18 condition of probation is a violation of probation. If respondent violates probation in any respect,
19 the Division, after giving respondent notice and the opportunity to be heard, may revoke probation
20 and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation,
21 or an Interim Suspension Order is filed against respondent during probation, the Division shall have
22 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
23 the matter is final.

24 15. LICENSE SURRENDER Following the effective date of this Decision, if
25 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the
26 terms and conditions of probation, respondent may request the voluntary surrender of respondent's
27 license. The Division reserves the right to evaluate respondent's request and to exercise its discretion
28 whether or not to grant the request, or to take any other action deemed appropriate and reasonable

1 under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15
2 calendar days deliver respondent's wallet and wall certificate to the Division or its designee and
3 respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and
4 conditions of probation and the surrender of respondent's license shall be deemed disciplinary action.
5 If respondent re-applies for a medical license, the application shall be treated as a petition for
6 reinstatement of a revoked certificate.

7 16. PROBATION MONITORING COSTS Respondent shall pay the costs
8 associated with probation monitoring each and every year of probation, as designated by the
9 Division, which are currently set at \$3173.00, but may be adjusted on an annual basis. Such costs
10 shall be payable to the Medical Board of California and delivered to the Division or its designee no
11 later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due
12 date is a violation of probation.

13
14
15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
17 fully discussed it with my attorney, Peter Osinoff. I understand the stipulation and the effect it will
18 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision
20 and Order of the Division of Medical Quality, Medical Board of California.

21 DATED: 6/21/06.

22
23 
24 SCOTT COLEMAN BICKMAN, M.D.
 Respondent

25
26
27 I have read and fully discussed with Respondent Scott Coleman Bickman, M.D. the
28 terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary

1 Order. I approve its form and content.

2 DATED: 7/10/06



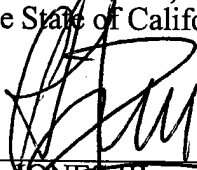
PETER OSINOFF
Attorney for Respondent

7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Division of Medical Quality, Medical Board of California of the
10 Department of Consumer Affairs.

11
12 DATED: 7/13/06

13 BILL LOCKYER, Attorney General
14 of the State of California



16 E. A. JONES III
17 Deputy Attorney General

18 Attorneys for Complainant

19 DOJ Docket/Matter ID Number: 03573160-LA2003AD0000
20 60114756.wpd

Exhibit A

Accusation No. 05-2001-126754

1 BILL LOCKYER, Attorney General
of the State of California
2 E. A. JONES III, State Bar No. 71375
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
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6 Attorneys for Complainant

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8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
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12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 SCOTT COLEMAN BICKMAN, M.D.
10600 Wilshire Blvd., Suite 306
15 Los Angeles, CA 90024

16 Physician's and Surgeon's Certificate No.
G 76532

Respondent.

Case No. 05-2001-126754

ACCUSATION

17
18 Complainant alleges:

19 PARTIES

20 1. David T. Thornton (Complainant) brings this Accusation solely in his
21 official capacity as the Interim Executive Director of the Medical Board of California,
22 Department of Consumer Affairs.

23 2. On or about May 17, 1993, the Medical Board of California issued
24 Physician's and Surgeon's Certificate Number G 76532 to Scott Coleman Bickman, M.D.
25 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times
26 relevant to the charges brought herein and will expire on April 30, 2005, unless renewed.

27 JURISDICTION

28 3. This Accusation is brought before the Division of Medical Quality

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 23, 2004
BY Valerie Mode ANALYST

1 (Division) for the Medical Board of California, Department of Consumer Affairs, under the
2 authority of the following laws. All section references are to the Business and Professions Code
3 unless otherwise indicated.

4 4. Section 2227 of the Code provides that a licensee who is found guilty
5 under the Medical Practice Act may have his or her license revoked, suspended for a period not
6 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or
7 such other action taken in relation to discipline as the Division deems proper.

8 5. Section 2234 of the Code states:

9 "The Division of Medical Quality shall take action against any licensee who is
10 charged with unprofessional conduct. In addition to other provisions of this article,
11 unprofessional conduct includes, but is not limited to, the following:

12 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
13 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
14 the Medical Practice Act].

15 "(b) Gross negligence.

16 "(c) Repeated negligent acts. To be repeated, there must be two or more
17 negligent acts or omissions. An initial negligent act or omission followed by a separate
18 and distinct departure from the applicable standard of care shall constitute repeated
19 negligent acts.

20 "(1) An initial negligent diagnosis followed by an act or omission medically
21 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
22 act.

23 "(2) When the standard of care requires a change in the diagnosis, act, or
24 omission that constitutes the negligent act described in paragraph (1), including, but not
25 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
26 conduct departs from the applicable standard of care, each departure constitutes a separate
27 and distinct breach of the standard of care.

28 "(d) Incompetence.

1 "(e) The commission of any act involving dishonesty or corruption which is
2 substantially related to the qualifications, functions, or duties of a physician and surgeon.

3 "(f) Any action or conduct which would have warranted the denial of a
4 certificate."

5 6. Section 2266 of the Code states that the failure of a physician and surgeon
6 to maintain adequate and accurate records relating to the provision of services to their patients
7 constitutes unprofessional conduct.

8 7. Section 125.3 of the Code provides, in pertinent part, that the Division
9 may request the administrative law judge to direct a licensee found to have committed a
10 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
11 investigation and enforcement of the case.

12 8. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
13 part:

14 "(a) Upon receipt of written notice from the Medical Board of California, the
15 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,
16 that a licensee's license has been placed on probation as a result of a disciplinary action,
17 the department may not reimburse any Medi-Cal claim for the type of surgical service or
18 invasive procedure that gave rise to the probation, including any dental surgery or
19 invasive procedure, that was performed by the licensee on or after the effective date of
20 probation and until the termination of all probationary terms and conditions or until the
21 probationary period has ended, whichever occurs first. This section shall apply except in
22 any case in which the relevant licensing board determines that compelling circumstances
23 warrant the continued reimbursement during the probationary period of any Medi-Cal
24 claim, including any claim for dental services, as so described. In such a case, the
25 department shall continue to reimburse the licensee for all procedures, except for those
26 invasive or surgical procedures for which the licensee was placed on probation."

27 ///

28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 9. Respondent is subject to disciplinary action under section 2234,
4 subdivision (b) of the Code in that respondent was grossly negligent in the care and treatment of
5 a patient. The circumstances are as follows:

6 A. On or about October 3, 2001, patient S.G. presented for a pre-operative
7 evaluation at her orthopedist's office in anticipation of a microdiscectomy at Sherman
8 Oaks Hospital. Her medical history included hypertension (treated with atenolol) and
9 type II diabetes, controlled. Pre-op lab information recorded included a normal EKG and
10 a normal chest x-ray as well as normal values for hemoglobin, hematocrit, electrolytes,
11 PT and PTT. A random blood glucose was 134.

12 B. On or about October 9, 2001, patient S.G. presented to respondent at
13 Sherman Oaks Hospital for a pre-operative anesthesiology evaluation. Much of the
14 preoperative evaluation record prepared by respondent is unreadable. Vital signs listed
15 include blood pressure and heart rate (103, elevated). No temperature is recorded. The
16 record contains neither of the patient's diabetes medications, nor her height and weight
17 and is missing two of four electrolyte values as well as a blood glucose value. Regional
18 anesthesia was planned and the patient was coded as ASA physical status 3. The nurse
19 pre-op records record a heart rate of 83 and a pre-op temperature of 99.7, elevated.

20 C. Two hand written anesthesia records are in the chart, an original and an
21 "amended OR record."

22 D. On or about October 9, 2001, patient S.G.'s anesthesia pre-op exam
23 commenced at 7:25 a.m. The anesthesia pre-op chart, which is hardly readable, was
24 missing the patient's weight and blood glucose. The chart did not comment on the
25 patient's elevated temperature or verify it. The plan for epidural anesthesia was stated as
26 "standard of care in these cases," but the patient was about 70% over ideal body weight
27 (IBW); this was not commented on in the chart. A single shot epidural was placed at the
28 L 3-4 interspace with the patient sitting. A test dose was given to ensure the injection

1 was not an intravascular or subarachnoid injection. The local anesthetic dose appears to
2 be "15 cc 2% xylocaine with epinephrine and 5 cc 0.5% marcaine," a high dose which
3 would result in significant sensory block, up to T 10 if not higher. No sensory or motor
4 level was recorded at any time after the block was given. The patient moved herself to a
5 Wilson frame in a prone position and sedation was begun. Sedation was Versed 2 mg IV,
6 sublimaze 50 microgm IV twice over ten to fifteen minutes. A diprivan (propofol, a
7 sedative) infusion was initiated at about 7:40 a.m.; total dose was 200 mg. In
8 combination with the other sedative medications, this could have led to significantly
9 depressed respiration. Blood pressure fell slowly, reaching 100/40 at 8:35 a.m. Heart
10 rate was recorded as decreasing to 45/min at 8:10 a.m. SpO₂ was recorded as 100% and
11 stable. ET CO₂ was recorded as stable, though the method of sensing it was not
12 indicated. At 9:10 a.m., a decreased respiratory effort was noted and a Laryngeal Mask
13 Airway (LMA) was placed with the patient still in the prone position. Positive pressure
14 ventilation was attempted using this supra-glottic airway but would not have been
15 effective due to the lack of seal of the trachea, the patient's position on the Wilson frame
16 and the patient's obesity. The pulse oximeter was reported to have stopped functioning,
17 but this was not charted in the anesthesia record. A replacement was called for but it did
18 not work, either. The elapsed time devoted to the oximeter situation was not recorded.
19 The patient's possible hypoxia was not timely communicated by respondent to the
20 surgeons. The surgeons had finished the procedure and one had left the OR when a code
21 blue was called. The patient was turned supine, intubated by respondent and CPR was
22 begun. The patient never awakened, had renal shutdown, and expired two days later.

23 E. On or about October 9, 2001, respondent was grossly negligent when he
24 failed to check for and/or document patient S.G.'s motor function and/or sensory level
25 after introduction of the epidural anesthetic.

26 F. On or about October 9, 2001, respondent was grossly negligent when he
27 failed to accurately and legibly document the course of patient S.G.'s epidural anesthesia.

28 G. On or about October 9, 2001, respondent was grossly negligent when he

1 failed to change the rate of infusion of propofol, a sedative, in response to the patient
2 S.G.'s partial airway obstruction, evidenced by snoring, at the beginning of the surgical
3 procedure.

4 H. On or about October 9, 2001, respondent was grossly negligent when he
5 failed to investigate or comment on changes in patient S.G.'s vital signs (i.e., bradycardia,
6 low diastolic blood pressure and low heart rate) during the course of the surgical
7 procedure.

8 I. On or about October 9, 2001, respondent was grossly negligent when he
9 (1) failed to immediately notify the surgeon regarding possible problems with patient
10 S.G.'s possible hypoxia and (2) failed to timely initiate corrective action.

11 J. On or about October 9, 2001, respondent was grossly negligent in failing
12 to maintain adequate and accurate anesthesia records in connection with the surgery on
13 patient S.G.

14 K. On or about October 9, 2001, respondent was grossly negligent in the
15 overall anesthetic care and treatment provided to patient S.G.

16 SECOND CAUSE FOR DISCIPLINE

17 (Repeated Negligent Acts)

18 10. Respondent is subject to disciplinary action under section 2234,
19 subdivision (c) of the Code in that respondent engaged in repeated negligent acts in the care and
20 treatment of a patient. The circumstances are as follows:

21 A. The facts and allegations set forth in paragraph 9.A. through 9.D. above
22 are incorporated here as if fully set forth.

23 B. On or about October 9, 2001, respondent was negligent when he failed to
24 perform and/or document a complete pre-op evaluation of patient S.G. by failing to note
25 the patient's weight and blood glucose in the chart, by failing to comment on or verify the
26 patient's elevated temperature and change in heart rate, and by failing to correlate the
27 planned anesthesia medications to the patient's body weight.

28 C. On or about October 9, 2001, respondent was negligent when he planned

1 for and implemented an anesthesia plan that called for epidural anesthetic in the face of
2 the patient's uninvestigated, elevated temperature.

3 D. On or about October 9, 2001, respondent was negligent when he failed to
4 check for and/or document patient S.G.'s motor function and/or sensory level after
5 introduction of the epidural anesthetic.

6 E. On or about October 9, 2001, respondent was negligent when he failed to
7 accurately and legibly document the course of patient S.G.'s epidural anesthesia.

8 F. On or about October 9, 2001, respondent was negligent when he failed to
9 change the rate of infusion of propofol, a sedative, in response to the patient S.G.'s partial
10 airway obstruction, evidenced by snoring, at the beginning of the surgical procedure.

11 G. On or about October 9, 2001, respondent was negligent when he failed to
12 investigate or comment on changes in patient S.G.'s vital signs (i.e., bradycardia, low
13 diastolic blood pressure and low heart rate) during the course of the surgical procedure.

14 H. On or about October 9, 2001, respondent was negligent when he (1) failed
15 to immediately notify the surgeon regarding possible problems with patient S.G.'s
16 possible hypoxia and (2) failed to timely initiate corrective action.

17 I. On or about October 9, 2001, respondent was negligent in failing to
18 maintain adequate and accurate anesthesia records in connection with the surgery on
19 patient S.G.

20 THIRD CAUSE FOR DISCIPLINE

21 (Incompetence)

22 11. Respondent is subject to disciplinary action under section 2234,
23 subdivision (d) of the Code in that respondent was incompetent in the care and treatment of a
24 patient. The circumstances are as follows:

25 A. The facts and allegations set forth in paragraph 9 and 10 above are
26 incorporated here as if fully set forth.

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alleged, and that following the hearing, the Division of Medical Quality issue a decision:

- DATED: March 23, 2004

David T. Thornton
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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